

EXHIBIT B



In the Court of Appeal of Alberta

Please type or print. Attach additional pages if necessary.
All applicable areas must be completed.

Appeal Number

0401-0299Ac

Q.B. Number

0401-10854

Form N

Respondent

(Status on Appeal)

(Plaintiff)

(Status at Trial)

Appellant

(Status on Appeal)

(Defendant)

(Status at Trial)

DEVON CANADA CORPORATION

- and -

PE-PITTSFIELD, LLC and PUREENERGY 1, LLC, both carrying on
business under the firm name and style of PITTSFIELD
GENERATING COMPANY, LP and the said PITTSFIELD
GENERATING COMPANY, LP, ALTRESCO, INC. (sometimes
known as ALTRESCO INCORPORATED) carrying on business
under the firm name and style of PITTSFIELD GENERATING
COMPANY, LP (formerly known as ALTRESCO PITTSFIELD, LP)
and the said PITTSFIELD GENERATING COMPANY, LP (formerly
known as ALTRESCO PITTSFIELD, LP)

Civil Notice of Appeal

1. Appeal from: ☐ Judgment ☒ Order ☐ Decision

Portion being appealed (R.511):

☒ Whole, or☐ Only specific part(s)

If specific part(s), indicate which part(s):

Provide a brief description of the issues:

Service ex juris, forum conveniens and jurisdiction; what is the proper forum for this action - Alberta or Massachusetts?

Of the three options below, indicate where the order originated:

☒ Court of Queen's Bench

File number: Action No. 0401-10854

Location: Calgary

Justice: B. Mahoney

On appeal from a Queen's Bench Master or Provincial Court Judge? ☐ Yes ☒ No

(If you are appealing an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required.)

☐ Administrative Tribunal

Specify Tribunal:

☐ Appeal of a decision by a Board

Specify Board:

2. Particulars of Judgment, Order or Decision Appealed from:

Date pronounced: September 13, 2004

Date entered: September 27, 2004

Date served: September 27, 2004

Attach a copy pursuant to R.506(2). If a copy is not attached, provide reason:

(Upon the Judgment or Order becoming available, the Appellant shall forthwith file a copy with the Registrar.)

3. If the order originated in the Court of Queen's Bench, check one of the following, to indicate the type of order that is under appeal:

- ☒ Interim order made
☒ In chambers
☐ During trial
Specify nature of Order: _____

- ☐ Final order or refusal to grant final order before trial (eg. summary judgment, striking pleadings, etc.)
☐ Judgment after trial

4(a) Is this appeal about procedure or custody access only under Part J. of the Consolidated Practice Directions?

☒ Yes ☐ No

If yes, check applicable boxes:

Error correcting only

☐ Yes ☒ No

Involves new law

☒ Yes ☐ No

4(b) Is this a Family Law Appeal?

If yes, check applicable boxes:

☐ Divorce

☐ Yes ☒ No

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Maintenance only

☐ Child support

☐ Spousal support

☐ Spousal and Child support

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Maintenance arrears

☐ Child support

☐ Spousal support

☐ Spousal and Child support

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Matrimonial property

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Adoption

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Guardianship

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Parentage

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Protection against family violence

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

☐ Other, please specify: _____

Error correcting only

☐ Yes ☐ No

Involves new law

☐ Yes ☐ No

5. Has this file been under Case Management in the Court of Queen's Bench? ☐ Yes ☒ No
 If yes, case management justice: But a number of decisions have been given by Justice A.B. Sulatycky
 Trial date: _____
6. Is this case related to any case presently before or about to be filed in this Court? ☐ Yes ☒ No
 (e.g. arises from same controversy; involves same, similar or related issues, etc.)
 If yes, name of related case(s): _____
 Action or appeal number(s): _____
 Nature of relationship: _____
7. Is the constitutional validity of an Act or Regulation being challenged as a result of this appeal? ☐ Yes ☒ No
8. Has mediation been attempted in the trial court? ☐ Yes ☒ No
9. Are you willing to participate in Judicial Dispute Resolution with a view to settlement or crystallizing of issues? ☐ Yes ☒ No
10. Would case management be beneficial? ☐ Yes ☒ No
11. Could this matter be decided without oral argument? ☐ Yes ☒ No
12. Should the appeal be expedited? ☐ Yes ☒ No
 If yes, provide reason: _____

13. Is there a statutory ban, ban on publication or an order of the Court which affects the privacy status of this file? ☐ Yes ☒ No
 If yes, provide details including which party/parties the ban or order affects and the section the ban was granted under: _____

14. Appellant's estimated time of argument (if less than 45 minutes): _____
15. List respondent(s) or counsel for the respondent(s)
Stanley Carscallen, Q.C.
 Name
Carscallen Lockwood LLP
 Law Firm (if applicable)
1500, 407 - 2nd Street SW, Calgary, AB
 Address
(403) 262-3775
 Telephone Number
(403) 262-2952
 Fax Number
T2P 2Y3
 Postal Code

Note: The address set out in section 15 will be considered the respondent's address for service until such time as the respondent files documentation specifying otherwise.

All parties listed in section 15 must be served with a filed copy of the Notice of Appeal within the prescribed appeal period. (R.510(1))

October 5, 2004

Date

MAY JENSEN SHAWA
SOLOMON LLP

Per:

Cassie Jensen
Counsel for the Appellants
(being all of the Appellants/
Defendants with the exception
of Altresco, Inc.)

BLAKE, CASSELS &
GRAYDON LLP

Per:

Bryan Douglas
Counsel for the Appellant
Altresco, Inc.

Schedule "A"

Action No. 0401-10854

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:
hereby certify this to be a true copy of
the original Order
Dated this 27 day of Sept. 2004
[Signature]
for Clerk of the Court

DEVON CANADA CORPORATION

Plaintiff

- and -

PE-PITTSFIELD, LLC and PUREENERGY I, LLC, both carrying on business under the firm name and style of PITTSFIELD GENERATING COMPANY, LP and the said PITTSFIELD GENERATING COMPANY, LP, ALTRESCO, INC. (sometimes known as ALTRESCO INCORPORATED) carrying on business under the firm name and style of PITTSFIELD GENERATING COMPANY, LP (formerly known as ALTRESCO PITTSFIELD, LP) and the said PITTSFIELD GENERATING COMPANY, LP (formerly known as ALTRESCO PITTSFIELD, LP)

Defendants

BEFORE THE HONOURABLE
MR. JUSTICE B.E. MAHONEY
IN CHAMBERS

) AT THE COURT HOUSE, CALGARY,
) ALBERTA, ON MONDAY, THE
) 13th DAY OF SEPTEMBER, 2004.

ORDER

UPON the application of all of the Defendants except Altresco, Inc., by way of their Notice of Motion filed July 28, 2004, and the similar application of the Defendant Altresco, Inc. by way of its Notice of Motion filed on August 6, 2004; AND UPON reading the Affidavits of Henry H. Assen filed by the Plaintiff and sworn on July 12th, August 3rd, August 10th and August 20th, 2004; AND UPON reading the Affidavits filed by the Defendants of Kathy R. Neal sworn on August 13th, 2004, of Donald W. Scholl sworn on August 16th, 2004, and of George Lehner sworn on August 16th, 2004; AND UPON hearing the submissions of counsel for the Defendants and the submissions of counsel for the Plaintiff;

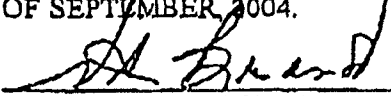
IT IS HEREBY ORDERED THAT:

1. The Defendants' applications are hereby denied; and


- 2 -

2. Costs in relation to this motion may be spoken to within 30 days hereof.

ENTERED THIS 27 DAY
OF SEPTEMBER, 2004.


CLERK OF THE COURT

COURT
SEAL

11
Monica Neitzer
C.K.C.B.A. 

APPROVED AS THE ORDER GRANTED:

MAY JENSEN SHAWA SOLOMON LLP

Per: 

Carsten Jensen
Counsel for the Defendants other
than Altresco, Inc.

BLAKE, CASSELS & GRAYDON LLP

Per: 

Bryan C. Duguid
Counsel for the Defendant,
Altresco, Inc.

Action No. 0401-10854

2004

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

DEVON CANADA CORPORATION

Plaintiff

- and -

PE-PITTSFIELD, LLC and PUREENERGY I, LLC, both carrying on business under the firm name and style of PITTSFIELD GENERATING COMPANY, LP and the said PITTSFIELD GENERATING COMPANY, LP, ALTRESCO, INC. (sometimes known as ALTRESCO INCORPORATED) carrying on business under the firm name and style of PITTSFIELD GENERATING COMPANY, LP (formerly known as ALTRESCO PITTSFIELD, LP) and the said PITTSFIELD GENERATING COMPANY, LP (formerly known as ALTRESCO PITTSFIELD, LP)

Defendants

CLERK OF THE COURT

SEP 27 2004

CALGARY, ALBERTA

ORDER

CARSCALLEN LOCKWOOD LLP

Barristers and Solicitors
1500, 407 - 2nd Street SW
Calgary, Alberta T2P 2Y3

Attention: Stanley Carscallen, Q.C. and

Catherine A. Crang

Telephone: (403) 262-3775

File No. 16798

Notice to the Respondent:

A respondent who fails to comply with the requirements of the Alberta Rules of Court and the Court of Appeal Consolidated Practice Directions, within the prescribed time, will not be allowed to present oral argument, nor be entitled to costs, unless otherwise ordered.

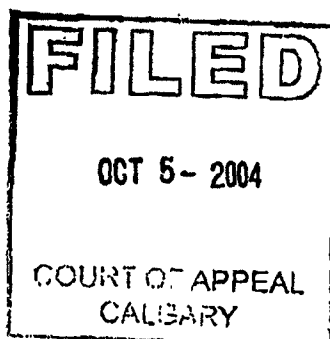
Failure to appear at the hearing may also lead to an order or judgment being made against the respondent in their absence.

Notice To All Parties:

Parties are required to provide an address for service if it is different than the address set out in this document.

Parties are also required to notify the Registrar of any change of address throughout the proceedings, to ensure that they can be contacted at all times.

An address for service within 30 kilometers of the office of the Registrar must be provided (r.5(1)(b)(i)).



APPEAL NO: 0401-0299 AC
Action No. 0401-10854

IN THE COURT OF APPEAL OF ALBERTA

BETWEEN:

DEVON CANADA CORPORATION

Respondent
(Plaintiff)

-and-

PE-PITTSFIELD, LLC and PUREENERGY I, LLC,
both carrying on business under the firm name and
style of PITTSFIELD GENERATING COMPANY,
LP and the said PITTSFIELD GENERATING
COMPANY, LP, ALTRESCO, INC. (sometimes
known as ALTRESCO INCORPORATED)
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under the firm name and style of PITTSFIELD
GENERATING COMPANY, LP (formerly known
as ALTRESCO PITTSFIELD, LP) and the said
PITTSFIELD GENERATING COMPANY, LP
(formerly known as
ALTRESCO PITTSFIELD, LP)

Appellants
(Defendants)

CIVIL NOTICE OF APPEAL

MAY JENSEN SHAWA SOLOMON LLP
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Calgary, Alberta T2P 1C2
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Calgary, Alberta T2P 4J8
Phone: (403) 260-9716
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